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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/090,015	02/22/2002	Jane M. Simmons	990823PCT-US	5006

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INTELLECTUAL PROPERTY DEPARTMENT
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EXAMINER

SEDIGHIAN, REZA

ART UNIT PAPER NUMBER

2633

DATE MAILED: 01/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 10/090,015	Applicant(s) SIMMONS ET AL.	
Examiner M. R. Sedighian	Art Unit 2633	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 25 October 2005.
- 2a) This action is **FINAL**.
- 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 21-40 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 40 is/are allowed.
- 6) Claim(s) 21-23, 26, 27 and 35-37 is/are rejected.
- 7) Claim(s) 24, 25, 28-34, 38 and 39 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 22 February 2002 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/17/02.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

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1. This communication is responsive to applicant's 10/25/05 remarks and preliminary amendments of 2/22/02. Claims 21-40 are now pending.

2. In the IDS form of 4/17/02, the foreign patents, and other documents, are not considered since such documents are not provided.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 1, it recites the limitation "the nodes " in line 5. There is insufficient antecedent basis for this limitation in the claim.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 21-23, 26-27, and 35-37 are rejected under 35 U.S.C. 102(b) as being anticipated by Fee (US Patent No: 5,777,761).

Regarding claims 21 and 35, Fee teaches a wavelength division multiplexed optical communication network (col. 4, lines 44-46 and fig. 1), comprising: a plurality of spectral group

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routers (108a, 108b, fig. 1) through which optical signals can pass without undergoing an optical to electrical to optical conversion (col. 4, lines 20-28); optical communication paths (106a, 106b, 106c, fig. 1) optically connecting nodes of the network (110a, 110b, fig. 1); means for configuring a plurality of connections in the network into a plurality of spectral groups (spectral groups formed by respective optical signals transmitted from different transmitters of the working facilities 136a, 136b, and 136c), wherein configuring the plurality of connections includes: routing each connection from a source node (110a, 136a, fig. 1) to a destination node (136d, 110b, fig. 1); partitioning each of a plurality of the connections into a plurality of subconnections (the outputs signals of respective couplers 134a, 134b, and 134c can make a plurality of subconnections); and forming spectral groups for connections and subconnections that are routed on identical paths (for example, the transmitted signals that are routed or switched by switch 108a collectively propagate over fiber 106a). As to claim 35, Fee further teaches at least one of the signal channels is assigned to less than all of the links in the spectral group (for example, the signal transmitted by transmitter 116a is only transmitted by the link that is connected to multiplexer 130a, not by any other link in the network, or the signal transmitted by transmitter 116a only propagate over link 106a, not by other links such as 106b or 106c).

Regarding claim 22, Fee teaches at least one spectral group routers is an all optical switch (col. 4, lines 20-27) including at least three ports (the ports that are connected to switch 108a), wherein each port is connected to a different optical communication path (different communication paths from couplers 134a, 134b, and 134c that are connected to ports of the switch 108a), and wherein optical signals entering one port can be selectively output at another

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port without undergoing an optical to electrical to optical conversion (col. 4, lines 40-42, col. 9, lines 6-12).

Regarding claim 23, Fee teaches the optical switch (108a, fig. 1) selectively switches signals in groups of one or more spectral groups (col. 9, lines 6-12, 14-24, the output multiplexed signal from spectral group of transmitters 112a, 114a, and 116a can be switched by switch 108a).

Regarding claims 26 and 36, Fee teaches the means for configuring a plurality of connections includes a network management system (col. 5, lines 54-65, col. 6, lines 8-20 and 138, fig. 1).

Regarding claim 27, Fee teaches the network management system utilizes an optical waveband hierarchy which includes a network management level, and wherein the means for configuring a plurality of connections is resident at the network management level of the optical waveband hierarchy (col. 5, lines 54-65, col. 7, lines 20-25).

As to claim 37, it requires similar limitations as recited in claim 21 above.

7. Claims 24-25, 28-34, 38-39 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Claim 40 is allowed over prior art of record.


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. R. Sedighian whose telephone number is (571) 272-3034.

The examiner can normally be reached on M-F (from 9 AM to 5 PM).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan can be reached on (571) 272-3022. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


M. R. SEDIGHIAN
PRIMARY EXAMINER